

majority vote shall require 3 or more votes), provided that in the case of a split decision on routine operational matters, the vessel operator may make the decision based on the applicable established operating procedures of that vessel operator, with the basic guiding rule that vessels being on schedule and meeting their proforma windows shall take priority. The Parties may discuss and agree from time to time on other voting rules for specific decisions not otherwise set forth in this subparagraph.

6.3 The following persons are authorized to subscribe to and file this Agreement and any accompanying materials, as well as any subsequent modifications to this Agreement which may be adopted by the Parties:

- (a) Any authorized officer of each of the Parties; and
- (b) Legal counsel for the Parties collectively or individually.

6.4 The Parties may implement this Agreement by decisions made or actions taken at meetings or by telephone, fax, e-mail, or exchange of other writing.

ARTICLE 7: DURATION AND TERMINATION OF AGREEMENT

7.1 This Agreement shall be effective as of the later of April 1, 2017 or the date it becomes effective under the U.S. Shipping Act of 1984, as amended, and shall continue in effect until April 1, 2022. Thereafter, the Agreement will be automatically renewed for additional one (1) year terms unless terminated by a Party or Parties according to the provisions of this Article 7, unanimous agreement of the Parties, or withdrawal of all but one of the Parties.

7.2 Any Party shall have the right to withdraw from this Agreement without financial or other penalty by giving twelve (12) months' written notice, provided that such notice may not be given prior to April 1, 2020.

~~7.3 If at any time during the term of the Agreement there is a material change in ownership or control of a Party ("material change" being defined, subject to such exceptions as the Parties may agree, as a change in 50% or more of the controlling stock of the Party or its ultimate parent company), and the other Parties are unanimously of the opinion arrived at in good faith that such change is likely to materially prejudice the cohesion, operation or viability of the Agreement, the other Parties shall have the right, within six (6) months of the effective date of such change, to either:~~

- ~~(a) unanimously agree to terminate that Party's participation in the Agreement by giving not less than six (6) months written notice to that Party; or~~

7.3 [RESERVED]

~~(b) — if that Party's participation is not terminated under subparagraph (a) above, individually withdraw from this Agreement by giving not less than six (6) months written notice to the other Parties, within six (6) months of the change.~~

~~7.4 (a) If at any time during the term of the Agreement any Party should become bankrupt or declare insolvency or have a receiving order made against it, suspend payments, or continue its business under a receiver for the benefit of any of its creditors, or if a petition is presented or a meeting convened for the purpose of considering a resolution, or other steps are taken, for the winding up of the Party (other than for the purposes of and followed by a resolution previously approved in writing by the other Parties), or any event similar to any of the above (collectively, an "insolvency event") shall occur under the laws of the Party's country of incorporation (the Party so affected being referred to in this sub-clause 7.4 only as the Affected Party) and the other Parties are unanimously of the opinion that the result may be materially detrimental to the Service, or that sums may be owed by the Affected Party to any other Party or Parties and may not be paid in full or their payment may be delayed, then, by unanimous decision of the other Parties, any further participation of the Affected Party in the Agreement or any part thereof may, with immediate effect, either be terminated or suspended for such period as the other Parties, in their sole discretion, deem appropriate. In particular, but without limitation thereto, the operation of the adjusting payments mechanism in respect of the Affected Party may be suspended. Such termination or suspension may include, as the Parties other than the Affected Party may determine to be reasonably necessary, removal of all or some of the Affected Party's vessels from service, suspension of the Affected Party's right to load cargo aboard vessels of the other Parties, or a requirement to discharge cargo of the other Parties at alternate locations. Any termination under this sub-clause 7.4(a) shall be effective as to the Affected Party and any space made available to third parties under the terms of this Agreement, provided that such termination shall be delayed as to the carriage of cargo on behalf of third parties to the extent necessary to allow for the discharge of such cargo at the intended port of discharge or at an alternative location within the schedule route as directed.~~

~~(b) In the event of a termination or suspension under paragraph 7.4(a) hereof, in order to facilitate, to the extent possible, the onward movement of cargo on board vessels operated by the Affected Line or the other Parties, the Parties are authorized to make financial or operational arrangements directly with shippers, providers of vessels or space to the Affected Line in use under this Agreement, agents, service providers, and sub-contractors of the Affected Line; and agree on the establishment of financial guarantees or other financial safeguards by the Parties to protect against the impacts of insolvency, procedures for obtaining the release of cargo from vessel operators or terminal operators and for payment of financial obligations to terminal operators or other service providers by the Affected Line or other Parties, and other measures necessary to maintain continuity of operations and to minimize disruption or congestion caused by any action as referred to in paragraph 7.4(a).~~ 7.4 To address a possible Insolvency Event or Material Adverse Change, as those terms are defined in Appendix B, the provisions set forth in Appendix B hereto shall apply.

~~7.5 (a) Any Party may, as hereinafter provided, and following written demand to cure a claimed breach, withdraw from this Agreement for a breach by another Party of the withdrawing Party's rights under this Agreement which has a material adverse effect upon the withdrawing Party and which shall not be cured by any remedial action. The Parties shall, upon the giving of such demand for cure, promptly endeavor in good faith to resolve their differences or to cure such claimed breach. If, within sixty (60) days of such demand, the Parties, acting in good faith, shall fail to resolve their dispute, or there shall have been no cure effected, the Party having made demand for cure may withdraw from this Agreement upon not less than ninety (90) days prior written notice given after expiry of such sixty (60) day cure period.~~

~~(b) For purposes of the immediately preceding paragraph (b), a breach of a Party's obligations under this Agreement having a material adverse effect on another Party shall include a failure to comply with agreed capacity, operational and/or financial commitments that results in a material reduction in the benefits that the other Party could reasonably have expected to achieve from this Agreement.~~

~~7.6~~7.5 In the event of termination of this Agreement for whatever cause in relation to one or more of the Parties, the Parties, including the terminated Party, shall continue to be liable to one another with respect to all liabilities and obligations accrued prior to termination. For the period subsequent to the termination, the remaining Parties will consult to determine what if any adjustments in their rights and obligations are required.

ARTICLE 8: FORCE MAJEURE

8.1 In such circumstances as the event of war, whether declared or not, hostilities or the imminence thereof, act of public enemies, acts of God, arrest or restraint of princes, rulers, or people, or compliance with any compulsorily applicable law or government directive, search and rescue operations, boycott against flag, political ban, terrorism, civil commotion, labour disputes, lock-outs, or strikes or other events beyond the control of a Party which render this Agreement, a Service, Loop or Voyage, as the case may be, partially or wholly impracticable (a "Force Majeure Event"), the Agreement, the Service, Loop or Voyage, as the case may be, shall not thereby be terminated, but (subject to the provisions for termination set forth in Article 7) the performance thereof shall be suspended (in whole or in part as appropriate) until such time as the performance thereof is again practicable, without prejudice to any rights, liabilities, and obligations accrued at the date of suspension. Should the Force Majeure Event wholly suspend this Agreement, the Service, Loop or Voyage, as the case may be, for a period of six (6) calendar months running continuously from the date of commencement of the Force Majeure Event, the Agreement, the Service, Loop or Voyage, as the case may be, shall terminate unless the Parties otherwise agree.

APPENDIX B

1. Definitions. The following definitions shall apply to this Appendix B:

<u>Banking Day</u>	<u>means</u>	<u>a day (other than a Saturday or a Sunday) on which banks are open for general business in Tokyo, Taipei, Frankfurt, New York and Jersey</u>
<u>Contingency Fund Share</u>	<u>means</u>	<u>A Line or former Line shall be deemed to have a Contingency Fund Share if it would be entitled to any amount from the Contingency Account if the Trust were dissolved on the date specified, as a result of termination of this Agreement in respect of all Lines.</u>
<u>Insolvency Event</u>	<u>means</u>	<u>where a Line (i) is dissolved or has a resolution passed for its winding-up, official management or liquidation (other than pursuant to a solvent consolidation, amalgamation or merger); (ii) becomes insolvent, unable to pay its debts, or fails or admits in writing its inability generally to pay its debts as they become due; (iii) makes a general assignment, arrangement or composition with or for the benefit of its creditors or any class of them (other than pursuant to a solvent reorganisation, consolidation or amalgamation); (iv) institutes or has instituted against it a proceeding seeking a judgment of insolvency or bankruptcy, protection pursuant to, or any other relief under, any bankruptcy, insolvency or similar law affecting creditors' rights, or a petition is presented for its winding-up or liquidation; (v) seeks or becomes subject to the appointment of an administrator, receiver, liquidator or other similar official for it or for all or substantially all its assets; (vi) has a secured party take possession of, or has any legal process enforced or taken against, all or substantially all its assets.</u>
<u>Material Adverse Change</u>	<u>means</u>	<u>the occurrence in relation to a Line of any event or circumstance which, in the reasonable opinion of all the other Lines, has or is reasonably likely to have a material adverse effect on the business, operations and/or financial condition of the affected Line. In forming such opinion the other Lines shall, without limitation, be entitled to take into account the affected Line's interim and/or annual financial reports.</u>

2. Period of Agreement

2.1 The duration and withdrawal provisions applicable to this Appendix shall be the same as the duration and withdrawal provisions of the Agreement generally, as set forth in Articles 7.1 and 7.2.

Change of Control

2.2 Notwithstanding Clause 2.1, if at any time during the term of this Agreement there shall be a change in the control or a material change in the ownership of any one Line (the Line so affected being referred to in this Clause 2.2 only as the "Affected Line") and the other Lines are unanimously of the opinion arrived at in good faith that such change is likely to materially prejudice the cohesion, operation or viability of the service operated by the Lines in the Trade (hereinafter, the "Service"), then the other Lines may unanimously within six (6) months of the coming into effect of such change give not less than six (6) months' notice in writing to the Affected Line terminating the period of this Agreement in relation to that Line. In the event the Lines fail to reach a unanimous decision to terminate the Affected Line's membership in this Agreement, any individual Line may thereafter give six (6) months' notice in writing of its withdrawal from this Agreement, provided such notice is given within six (6) months of the change of control of the Affected Line.

2.3 For the purposes of Clause 2.2, a change in the control or material change in the ownership of a Line shall mean a change in fifty (50) percent or more of the controlling stock of that Line or its ultimate parent company and not include

- (a) any public offering of shares in that Line or its holding company, or
- (b) any shareholder of such Line or its holding company who was a shareholder of such Line or holding company on the effective date of this Agreement acquiring control of such Line or holding company.

Insolvency / Material Adverse Change

2.4 Upon the occurrence of an Insolvency Event and/or Material Adverse Change in relation to a Line (the Line so affected being referred to in Clauses 2.4 to 2.27 as the "Affected Line") and at any time thereafter, the other Lines may by unanimous agreement and with immediate effect give written notice to the Affected Line to terminate this Agreement, together with any agreement entered into pursuant to Clause 14.4 (a "Cross Slot Charterparty"), with respect to that Line, provided that:

- (a) The other Lines believe in good faith that the Insolvency Event and/or Material Adverse Change may be materially detrimental to the Service, and/or that payment of amounts due at such time or in the future from the Affected Line to

any other Line may be delayed or not made in full as a result of the Insolvency Event and/or Material Adverse Change;

- (b) For any goods being carried under the transport documents of any other Line on a containership provided by the Affected Line, such termination shall be delayed in respect of such goods to the extent necessary for them to be discharged at their intended port of discharge, or such earlier port in the loop rotation as that other Line may require;
- (c) For any goods being carried under the transport documents of the Affected Line on a containership provided by another Line, such termination shall be delayed in respect of such goods to the extent necessary for them to be discharged at their intended port of discharge, or such other place at which the goods may be discharged pursuant to the exercise of a Line's rights under the relevant cross slot charterparty. Normal phase out procedures shall not apply in the event of a termination under this clause, and the other Lines shall provide such replacement vessels as required to perform the Service.

2.5 Upon the occurrence of an Insolvency Event and/or Material Adverse Change, and without prejudice to their rights under Clause 2.4, provided that the other Lines believe in good faith that the Insolvency Event and/or Material Adverse Change may be materially detrimental to the Service, and/or that payment of amounts due at such time or in the future from the Affected Line to any other Line may be delayed or not made in full as a result of the Insolvency Event and/or Material Adverse Change, the other Lines may at any time thereafter by unanimous agreement require any one or more of the following by giving written notice to the Affected Line:

- (a) That the Affected Line's voting rights under this Agreement shall be suspended, such that for all purposes (i) any majority (e.g. 3:1) decision of the other Lines shall be deemed to be a majority decision of all Lines and (ii) any unanimous decision of the other Lines shall be deemed to be a unanimous decision of all Lines.
- (b) That the containerships provided by the Affected Line shall be withdrawn from Service at such ports of call in the loop rotation and at such times as the other Lines may specify. Normal phasing-out procedures shall not apply to such withdrawal and the other Lines shall provide such replacement containerships as required to perform the Service.
- (c) That the Affected Line shall not be entitled to book or present for shipment (even if already booked) any containers aboard containerships provided by the other Lines.

- (d) That no other Line shall be obliged to book or present for shipment (even if already booked) any containers aboard containerships provided by the Affected Line.
 - (e) That the Affected Line shall allow the discharge at any port of call in the loop rotation of any containers shipped by any other Line on board any containership provided by the Affected Line, and shall allow the discharging and reloading of other containers for the purpose of achieving such discharge.
 - (f) That the operation of any adjusting payments mechanism in respect of the Affected Line be suspended.
- 2.6 Each Line hereby agrees that, if it becomes an Affected Line and the conditions in Clause 2.5 are met, each other Line may make arrangements directly with the Affected Line's agents and sub-contractors (including the head owners of any containerships which are provided but not owned by the Affected Line), in order to ensure that any containers shipped by such other Line are carried to, discharged and delivered at their intended discharge port or such earlier port in the loop rotation as may be required by such other Line.
- 2.7 If, as a result of an Insolvency Event and/or Material Adverse Change and/or termination pursuant to Clause 2.4 above and/or the exercise of any other Line's rights under Clause 2.5, any other Line reasonably bears more than its share of any costs which in accordance with this Agreement are to be share d between the Lines or reasonably incurs any costs or expenses in completing the carriage of goods being carried or to be carried on any containership provided by the Affected Line or under the Affected Line's transport documents (the "**Insolvency/MAC Losses**"), then all of the other Lines shall bear the Insolvency/MAC Losses proportionally. Insolvency/MAC Losses shall not include amounts that the other Lines can otherwise recover from third parties (other than the Affected Line), including but not limited to the other Lines' respective insurers. Any amount not recovered from insurers as a result of policy deductibles shall be considered to be recovered for the purposes of this clause. The Affected Line shall indemnify each other Line in respect of any costs and/or expenses reasonably incurred as a result of an Insolvency Event, Material Adverse Change and/or such other Line's exercise of any rights under Clauses 2.4 and/or 2.5.
- 2.8 The other Lines may require the matters set out in Clause 2.5 only for so long as the conditions in Clause 2.5 continue to apply, except that any requirement for the Affected Line to withdraw containerships shall remain valid provided it was given at a time when the conditions in Clause 2.5 apply.
- 2.9 If this Agreement is terminated in relation to any Line under this Clause 2 or if any Line withdraws from this Agreement (a) all Lines shall continue to be liable to one another in

respect of all liabilities and obligations accrued prior to termination, and (b) this Agreement shall remain in force in relation to the remaining Lines. If this Agreement is terminated in relation to any Line under this Clause 2, the remaining Lines shall discuss in good faith and agree to any amendments to this Agreement necessitated by such termination.

- 2.10 Each Line hereby agrees that, if it becomes an Affected Line, it shall procure that containerships provided by it shall continue to make port calls in accordance with this Agreement, notwithstanding any risk that those containerships will be arrested or otherwise detained.

Contingency Account

Parties' Rights and Obligations

- 2.11 Each Line shall within thirty (30) days of this Clause 2.11 and the Trust (as defined below) having become effective:

- (a) Deposit the sum of USD 1 million into an account (the "**Contingency Account**") held by the trustees (the "**Trustees**") of the Alliance Purpose Trust (the "**Trust**"), a trust to be created by the Lines pursuant to a deed (the "**Deed**"); and
- (b) At its option, either deposit a further sum of USD 9 million into the Contingency Account or procure the provision of a letter of credit for the sum of USD 9 million, from an institution reasonably acceptable to the other Lines and in the form of a letter of credit (the "**Contingency Guarantee**").

The Contingency Account (including any funds therein) and any Contingency Guarantees shall be held by the Trustees on the terms of the Trust for all Lines and shall be applied in accordance with the terms of this Agreement and the Deed. As shall be further set out in the Deed, cash deposited by the Lines shall be held by the Trustees in a bank account or accounts as cash so as to be available within one Banking Day unless otherwise agreed by each Line and by each former Line that has a Contingency Fund Share at the time of such agreement.

- 2.12 If the Committee, acting unanimously (as defined in Clause 2.12(d)), believes (i) that for the purpose of clauses 2.12-2.27 a Line ("the Certified Affected Line") has become an Affected Line, and (ii) that disbursements should be made from the Contingency Account:

- (a) The Committee, acting unanimously (as defined in Clause 2.12(d)) under this Clause 2.12 may give written notice(s) to the Trustees (a) certifying that the Certified Affected Line has become an Affected Line, (b) identifying the disbursements (with details of the

recipient(s) and amount(s)) that are required to be made from the Contingency Account, and (c) certifying that such disbursements comply with the provisions of Clause 2.12(b) of this Agreement.

(b) The Committee, acting unanimously (as defined in Clause 2.12(d)), shall only require disbursements to be made from the Contingency Account:

- (i) To pay any costs, losses or liabilities reasonably incurred by the other Lines as a result of any breach of Clause 2.10 above; and
- (ii) To advance such funds or make such payments (whether on behalf of the Certified Affected Line or otherwise) in respect of (a) the carriage, handling, storage and delivery of any containers shipped by the other Lines on board containerships provided by the Certified Affected Line (including, for the avoidance of doubt, operating costs of such containerships) and/or (b) any claims by third parties which lead or may otherwise lead to the arrest or detention of such containerships, in each case as may reasonably be required to ensure that such containers can be carried to and delivered at their intended discharge port without delay, or such earlier port in the loop rotation as may be required by the relevant container operator;
- (iii) To reimburse a Line in respect of funds paid or advanced by it where the Committee agree, by unanimous decision (as defined in Clause 2.12(d)), that such payments or advances fall into one or more of the categories listed in sub-clauses (i) and (ii) above and should be reimbursed to that Line.

(c) The Trustees will not be obliged to check the accuracy of any notice under this Clause, which shall be conclusive as to its contents except in case of fraud.

(d) For the purpose of this Clause 2.12, (i) the Committee acts unanimously if all Committee members, other than the Committee member appointed by the Certified Affected Line, agree and (ii) the Committee member appointed by the Certified Affected Line may not vote whether or not its voting rights have been suspended under Clause 2.5(a). For the avoidance of doubt, for the purposes of this Clause 2.12, the Committee may act unanimously without any prior notice to the proposed Certified Affected Line and without the participation of the Certified Affected Line in any related Committee meeting or meetings.

- 2.13 Within thirty (30) days of any funds being disbursed in accordance with Clauses 2.12 above (and Clause 2.17(a) below), the Lines shall pay into the Contingency Account the amount of such disbursements in accordance with their respective liability under this Agreement to pay for such amounts. For the avoidance of any doubt, this Clause applies to a Certified Affected Line as well as each Line that is not a Certified Affected Line in case such Line is liable under this Agreement in respect of the said disbursement amounts. On termination of this Agreement with respect to a Line pursuant to Clause 2.4, the provisions of this clause shall continue to apply to that Line for a period of three hundred and sixty (360) days for all disbursements made during such period in connection with the Insolvency Event or Material Adverse Change for which such termination occurred.
- 2.14 Without prejudice to the obligations under Clause 2.13, if at any time the aggregate of (a) the total funds in the Contingency Account (excluding accrued interest or other proceeds of investment) and (b) the value of any Contingency Guarantees, falls below the equivalent of USD 10 million for each Line that is not at that time a Certified Affected Line, and the time for any payment(s) to be made under Clause 2.13 has expired, then such Lines shall within thirty (30) days deposit in equal shares the amount necessary to make good such shortfall. For the avoidance of any doubt, this Clause applies only to each Line that is not at that time a Certified Affected Line even though such Line did not cause such shortfall.
- 2.15 The Committee (acting unanimously, as defined in Clause 2.12(d) above), shall as soon as is reasonably practicable notify the Trustees of (a) any amounts that are required to be paid pursuant to Clauses 2.13 and 2.14 above, (b) the Line(s) that are required to make such payment(s) and (c) the date(s) by which such payment(s) are due.
- 2.16 (a) If, under any Contingency Guarantee, an Issuer sends a non-extension notice to the beneficiary, the Line that procured the provision of such Contingency Guarantee shall procure either (a) the withdrawal of the non-extension notice or (b) the provision of a new Contingency Guarantee or (c) deposit a sum of USD9 million into the Contingency Account, in each case by no later than thirty (30) days prior to the expiry date of the Contingency Guarantee. Where this Agreement is terminated with respect to a Line pursuant to Clause 2.4, this clause shall continue to apply to that Line for a period of three hundred and sixty (360) days following termination.
- (b) If a Line provides a Contingency Guarantee, it shall by no later than thirty (30) days or twelve (12) months prior to the Expiry Date of the Contingency Guarantee, depending on the terms of the Contingency Guarantee, either (a) procure the provision of a new Contingency Guarantee or (b) deposit a sum of USD 9 million into the Contingency Account. Where this Agreement is terminated with respect to a Line pursuant to Clause

2.4, this clause shall continue to apply to that Line for a period of three hundred and sixty (360) days following termination.

(c) If a Line that has provided a Contingency Guarantee does not comply with the provisions of clause 2.16(b), the other Lines may by unanimous agreement give 11 (eleven) months' written notice to that Line to terminate this Agreement, together with any cross slot charterparty in force at the expiry of such notice, with respect to that Line.

Payments out of the Contingency Account

2.17 The Lines hereby agree that funds shall be disbursed from the Contingency Account as follows:

- (a) Upon the Trustees' receipt of notice(s) in accordance with Clause 2.12 above, they shall pay the identified recipient(s) the amount(s) specified in the notice(s);
- (b) Upon the Trustees' receipt of (i) a written notice from a Line stating the amount of its share of the Contingency Account that exceeds USD 1 million, confirming that all disbursements that the Committee has required to be made under Clause 2.12 have been made, and requesting to replace such amount with a Contingency Guarantee and (ii) the original of the Contingency Guarantee, the Trustees shall send copies of the notice and Contingency Guarantee to any Line or former Line that has a Contingency Fund Share at the time of receipt such notice. If within fourteen (14) days thereafter, the Trustees:
 - (i) Receive any objection(s) from any Line or any such former Line disputing the acceptability of the bank that has provided the Contingency Guarantee, or disputing that all disbursements that the Committee has required to be made under Clause 2.12 have been made at the date of the notice, no payment shall be made to the requesting Line pending either the withdrawal of the objection(s) or the publication of a final award or judgment as to the disputed matters (such award or judgment must be binding on all Lines, and must not be the subject of any appeal or be capable of being appealed);
 - (ii) Receive any objection(s) from any Line or any such former Line disputing the amount of the requesting Line's share exceeding USD 1 million as stated in the notice, the Trustees shall pay any undisputed amount to the requesting Line but defer any payment of the disputed amount pending either the withdrawal of the objection(s) or the publication of a final award or judgment as to the amount due to the requesting Line (such award or judgment must be binding on all Lines, and must not be the subject of any appeal or be capable of being appealed);

- (iii) Do not receive any objection(s) from any Line or any such former Line, the Trustees shall pay the requesting Line the amount of its share exceeding USD 1 million as stated in the notice.
- (c) Upon the Trustees' receipt of a written notice from a Line stating (i) that this Agreement has been terminated with respect to it, (ii) whether such termination is pursuant to Clause 2.4 or otherwise and (iii) the amount of its share of the Contingency Account, the Trustees shall send copies of such notice to any Line or former Line that has a Contingency Fund Share at the time of receipt of such notice. If, within fourteen (14) days thereafter, the Trustees:-

 - (i) Receive any objection(s) from any Line or any such former Line disputing whether there has been a termination or the grounds of termination, no payment shall be made pending either the withdrawal of the objection(s) or the publication of an award or judgment as to the disputed matters (such award or judgment must be binding on all Lines, and must not be the subject of any appeal or be capable of being appealed);
 - (ii) Receive any objection(s) from any Line or any such former Line disputing the amount of the departing Line's share as stated in the notice, the Trustees shall pay any undisputed amount to the departing Line but defer any payment of the disputed amount pending either the withdrawal of the objection(s) or the publication of an award or judgment as to the departing Line's share (such award or judgment must be binding on all Lines, and must not be the subject of any appeal or be capable of being appealed);
 - (iii) Do not receive any objection(s) from any Line or any such former Line, the Trustees shall pay the departing Line the amount of its share as stated in the notice.
- (d) Upon the Trustees' receipt of a written notice from all members of the Committee which confirms that this Agreement has been terminated with respect to all Lines and either (i) includes a statement agreed by each Line and each former Line that has a Contingency Fund Share at the time of such notice as to the shares due to each of them or (ii) is accompanied by a copy of a final award or judgment as to such shares (such award or judgment must be binding on all Lines, and must not be the subject of any appeal or be capable of being appealed), the Trustees shall pay each Line and each such former Line their respective shares in accordance with the agreed statement or the award or judgment, as the case may be.

- (e) Upon the Trustees' receipt of a written notice from a Line stating (i) that the amount of its share in the Contingency Account exceeds USD 10 million, or USD 1 million if a Contingency Guarantee is in force in respect of such Line, and (ii) the amount of such excess, the Trustees shall send copies of the notice to every Line and former Line that has a Contingency Fund Share at the time of receipt of such notice. If within fourteen (14) days thereafter, the Trustees:
- (i) Receive any objection(s) from any Line or any such former Line disputing the amount of such excess as stated in the notice, the Trustees shall pay any undisputed amount to the requesting Line but defer payment of the disputed amount pending either the withdrawal of the objection(s) or the publication of a final award or judgment as to the amount due to the requesting Line (such award or judgment must be binding on all Lines, and must not be the subject of any appeal or be capable of being appealed);
- (ii) Do not receive any objection(s) from any Line or any such former Line, the Trustees shall pay the requesting Line the amount stated in the notice.
- (f) The Lines agree that they will not object unreasonably to any notice given under Clause 2.17. However any failure to comply with this requirement shall not make an objection invalid and the Trustees shall not be required to determine whether an objection is unreasonable.

Calculation of Payments to Lines

- 2.18 For the purposes of Clause 2.17(b), the requesting Line's share shall be the amount to which it would be entitled if this Agreement were terminated with respect to it (other than pursuant to Clause 2.4) on the date on which the original of the Contingency Guarantee is provided to the Trustees.
- 2.19 For the purposes of Clause 2.17(c), where the termination of this Agreement with respect to the departing Line is not pursuant to clause 2.4:
- (a) The share of each Line (including the departing Line) shall be calculated at the date of termination (the "**Calculation Date**") as follows:-
- (i) The aggregate of:
- any amounts deposited by that Line into the Contingency Account pursuant to Clauses 2.11 and 2.14; and

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- any amounts received by the Trustees pursuant to demands for payment made under any Contingency Guarantee procured by that Line;

(ii) Less:

- any amounts previously paid to that Line pursuant to Clause 2.17(b) or (e);
- for disbursements made from the Contingency Account before the Calculation Date, any amounts which that Line should have deposited pursuant to Clause 2.13 but has not done so, or which it would have become liable to deposit pursuant to Clause 2.13 if the 30 day period in that Clause had expired before the Calculation Date; and
- a share of the ordinary running costs of the Trust to be calculated on a pro rata basis by reference to the duration of that Line's membership of the Alliance, to the extent not already paid;

(iii) Where the amount calculated under Clause 2.19(a)(i)-(ii) and (b) with respect to any Line(s) or former Line(s) is negative, then without prejudice to that Line's liability to make any deposits that are due, such amount shall, in equal shares, be deducted from the amounts calculated with respect to any other Lines or former Line(s).

(b) The share of any former Line shall be calculated at the Calculation Date as the aggregate of:

(i) any amount to which it is entitled but which has not yet been paid; and

(ii) if this Agreement was previously terminated in relation to such Line under Clause 2.4 but the three hundred and sixty (360) day period in Clause 2.20(a) had not expired at the Calculation Date, the amount calculated under Clauses 2.20(a) and 2.21 below, as if such period had expired at the Calculation Date.

(c) After the date of termination, any Contingency Guarantee provided by the departing Line shall be returned by the Trustees to the issuer and no demands shall be made by the Trustees under it unless the amount calculated under sub-paragraphs (i) and (ii) is negative, in which case the Trustees shall immediately demand payment in the amount of the shortfall from the departing Line and the departing Line shall make such payment within three Banking Days of receiving

the Trustees' demand. If the Trustees do not receive such payment, they shall immediately demand payment in full under the Contingency Guarantee and remit any balance to the departing Line.

2.20 For the purposes of Clause 2.17(c), where the termination of this Agreement with respect to the departing Line is pursuant to clause 2.4:

- (a) The departing Line's share of the Contingency Account (excluding accrued interest and investment proceeds) shall be calculated in accordance with Clause 2.19(a) except that the Calculation Date shall be three hundred and sixty (360) days following the date of termination;
- (b) After the expiry of three hundred and sixty (360) days following the date of termination, any Contingency Guarantee provided by the departing Line shall be returned by the Trustees to the Issuer and no demands shall be made by the Trustees under it, unless the amount calculated under sub-paragraphs (i) and (ii) of Clause 2.19 is negative, in which case the Trustees shall immediately demand payment in the amount of the shortfall from the departing Line and the departing Line shall make such payment within three Banking Days of receiving the Trustees' demand. If the Trustees do not receive such payment, they shall immediately demand payment in full under the Contingency Guarantee and remit any balance to the departing Line.

2.21 In addition to any sum calculated in accordance with Clauses 2.19 and/or 2.20 above, and at the same time as such sums are paid, the departing Line is also to be paid a share of any interest or other investment proceeds that have accrued at the time of termination, being in the same proportion as its share of the total funds in the Contingency Account (excluding accrued interest and investment proceeds) during the time(s) when such investment proceed(s) accrued.

2.22A For the purposes of Clause 2.17(d):

- (a) Each Line or former Line's share of any funds remaining in the Contingency Account shall be the aggregate of:
 - (i) for each Line, an amount calculated in accordance with Clauses 2.19(a) and 2.21 above, except that the Calculation Date shall be the date on which this Agreement was terminated with respect to all Lines;
 - (ii) for each Line or former Line, any amounts to which it is already entitled but which have not yet been paid;

(iii) for each former Line in respect of which this Agreement was previously terminated under Clause 2.4 but the three hundred and sixty (360) day period in Clause 2.20(a) had not expired at the time of termination of this Agreement, any amounts to which it would be entitled under Clauses 2.20(a) and 2.21 above, if such period had expired at the time of termination of this Agreement; and

(iv) for each Line an equal share of any balance of funds in the Contingency Account following such distribution.

(b) After the date of termination, any Contingency Guarantee provided by a Line shall be returned by the Trustees to the Issuer and no demands shall be made by the Trustees under it unless the amount calculated under sub-paragraph (a) is negative, in which case the Trustees shall immediately demand payment in the amount of the shortfall from that Line and that Line shall make such payment within three Banking Days of receiving the Trustees' demand. If the Trustees do not receive such payment, they shall immediately demand payment in full under the Contingency Guarantee and remit any balance to the Line.

2.22B For the purposes of Clause 2.17(e) the requesting Line's share shall be the amount to which it would be entitled under Clause 2.22A(a)(i) and (ii) if the Agreement were terminated in relation to all Lines at the time of the request.

Operation of Contingency Account

2.23 Funds shall only be disbursed pursuant to Clause 2.17(a) from the sums that (i) the Lines deposit into the Contingency Account or (ii) are received into the Contingency Account pursuant to any demands under any Contingency Guarantees, and not from any accrued interest or other proceeds of investment, which shall be accounted for separately.

2.24 Within three Banking Days of any notice(s) being given to the Trustees pursuant to Clause 2.12, each Line in respect of which the Trustees are holding a Contingency Guarantee shall deposit the sum of USD9 million into the Contingency Account. If the Trustees:-

(a) receive such deposit from a Line as above, any Contingency Guarantee provided by that Line shall be returned by the Trustees to the Issuer and no demands shall be made by the Trustees under it;

(b) do not receive such deposit from a Line as above, the Trustees shall immediately demand payment in full under any Contingency Guarantee provided by that Line.

2.25 (a) If: (i) the Trustees receive a non-extension notice in respect of any Contingency Guarantee and the Trustees have not, by no later than fifteen (15) days prior to the expiry date, either received a notice from the Issuer withdrawing such non-extension notice or been provided with a new Contingency Guarantee by the relevant Line; or

(ii) a Line that has provided a Contingency Guarantee has not at least 15 days before its expiry date provided a new Contingency Guarantee to the Trustees;

the Trustees shall promptly demand that such Line deposits USD9 million into the Contingency Account and the Line shall do so within three Banking Days of receiving the Trustees' demand.

(b) If the Line:-

(i) makes such deposit as above, the Contingency Guarantee shall be returned by the Trustees to the Issuer and no demands shall be made by the Trustees under it;

(ii) fails to make such deposit as above, the Trustees shall immediately make a demand for payment in full under the Contingency Guarantee.

2.26 Any amounts which are to be paid to a Line pursuant to Clauses 2.17(b)-(e) above should be paid as soon as practicable.

2.27 If this Agreement is:

(a) terminated in relation to any Line by reason of that Line's breach (whether or not that Line is an Affected Line at that time); or

(b) terminated in relation to, rejected, or disclaimed by a Line, whether by operation of law or at the election of the Line (or any liquidator, trustee in bankruptcy, receiver, administrative receiver, administrator, compulsory manager or other similar officer appointed to it or in respect of all or substantially all of its assets) in any insolvency, bankruptcy or analogous proceeding;

then for the purposes of Clause 2.11-2.26 such termination will be deemed to have occurred pursuant to Clause 2.4.